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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,970	02/10/2000	Christer Almqvist	00-148	4605

7590

09/25/2002

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EXAMINER

TRAN, SINH N

ART UNIT

PAPER NUMBER

2643

DATE MAILED: 09/25/2002

21

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/501,970

Applicant(s)

ALMQVIST, CHRISTER

Examiner

Sinh Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2002. *should be confirmed*
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: page 2, lines 1-2, "characteristic features as set forth in appended claim 1" should be deleted.

Appropriate correction is required.

2. The indicated allowability of claim 1 is withdrawn in view of the newly discovered reference(s) to Wood et al (5,798,922). Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wieder (4,620,068) in view of Lansang (5,794,127) and further in view of Wood et al (5,798,922).

Regarding claims 6 and 7, Wieder discloses a hearing protection comprising first and second ear cup (22 and 4); headband (26); a loudspeaker in each ear cup (see Fig. 1); a microphone (36); a radio unit (34); electronic control unit (receiving and transmitting unit) actuable by a button set (microphone ON/OFF switch and squelch control switch, see col. 4, line

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17-20) located on the ear cup. Wieder fails to specifically disclose the implementation of the ON/OFF switch and the squelch switch. Lansang teaches implementing an on/off switch (two buttons -18) and channel selector control switch (two buttons -14) using two buttons (Figs. 3 and 4) wherein the buttons are functionally connected to one another. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Lansang's teaching of implementing switches by the use of two buttons to the switches of Wieder for the purpose of precise controlling. The combination of Wieder in view of Lansang fails to disclose that buttons within each group is located in a separate recess or depression.

*Snyder et al*  
Wood et al teaches implementing set of buttons into each group (the +-buttons; up and down buttons) wherein buttons within each group are functionally connected and is located in a separate recess or depression (the remote control 40 in Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of locating each group of button within a separate recess or depression of Wood et al. to the combination for the purpose of easily identified the buttons as to their functions.

62, 64, 66,  
68, 70, 72

The combination of Wieder in view of Lansang and further in view of wood et al further discloses that the recess and buttons are disposed in a curved path adapted to the length of the wearer's fingers and in an arched surface of the cup (the headphone cups are bowl-like shape (see Wieder). Therefore, the bowl-like shape would provides an arch surface for the recess and buttons and also provides the curved surface path for the recess and the buttons).

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*Allowable Subject Matter*

3. Claims 2-3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

4. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sinh Tran whose telephone number is (703) 305-4040. The examiner can normally be reached on M,T&Th 9:00AM-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT")

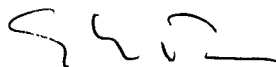
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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Sinh Tran  
Primary Examiner  
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st  
September 23, 2002